

Senate File 2164 - Introduced

SENATE FILE 2164
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO SF 2023)

A BILL FOR

1 An Act relating to the expungement of criminal offenses
2 for alcohol consumption in public, public intoxication,
3 simulated public intoxication, or similar local ordinances,
4 or when a finding of contempt has been entered, and
5 including applicability provisions.
6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 123.46, subsection 6, Code 2016, is
2 amended to read as follows:

3 6. Upon the expiration of two years following conviction
4 for a violation of this section and a violation of a local
5 ordinance that arose from the same transaction or occurrence,
6 a person may petition the court to expunge the conviction
7 including the conviction for a violation of a local ordinance
8 that arose from the same transaction or occurrence, and if
9 the person has had no other criminal convictions, other than
10 local traffic violations or simple misdemeanor violations of
11 chapter 321 during the two-year period, the conviction and the
12 conviction for a violation of a local ordinance that arose
13 from the same transaction or occurrence shall be expunged as
14 a matter of law. The court shall enter an order that the
15 record of the conviction and the conviction for a violation
16 of a local ordinance that arose from the same transaction or
17 occurrence be expunged by the clerk of the district court.
18 Notwithstanding section 692.2, after receipt of notice from the
19 clerk of the district court that a record of conviction and
20 the conviction for a violation of a local ordinance that arose
21 from the same transaction or occurrence has been expunged,
22 the record of conviction and the conviction for a violation
23 of a local ordinance that arose from the same transaction or
24 occurrence shall be removed from the criminal history data
25 files maintained by the department of public safety if such a
26 record was maintained in the criminal history data files.

27 Sec. 2. Section 907.9, subsection 4, paragraphs d and e,
28 Code 2016, are amended to read as follows:

29 d. A count or related charge that was dismissed shall not be
30 expunged pursuant to paragraph "c" in any case in which a count
31 or charge resulted in a conviction, not including a finding of
32 contempt, that was not expunged.

33 e. The provisions of paragraph "c" apply whether the
34 deferred judgment was expunged prior to July 1, 2012, or
35 on or after July 1, 2012. The provisions of paragraph "d"

1 apply whether the deferred judgment was expunged prior to the
2 effective date of this Act, or on or after the effective date
3 of this Act.

4 Sec. 3. APPLICABILITY AND IMPLEMENTATION. The judicial
5 branch shall have until July 1, 2017, to implement the
6 amendment to section 907.9 in this Act relating to the
7 expungement of the court's record of a dismissed count or
8 related charge and a finding of contempt.

9 EXPLANATION

10 The inclusion of this explanation does not constitute agreement with
11 the explanation's substance by the members of the general assembly.

12 This bill relates to the expungement of criminal offenses
13 for alcohol consumption in public, public intoxication,
14 simulated public intoxication, or similar local ordinances
15 that arose from the same transaction or occurrence, or when a
16 finding of contempt has been entered.

17 The expungement process under the bill provides that upon
18 the expiration of two years following conviction for alcohol
19 consumption in public, public intoxication, simulated public
20 intoxication, or similar local ordinance that arose from the
21 same transaction or occurrence, a person may petition the
22 court to expunge the conviction if the person has had no other
23 criminal convictions, other than local traffic violations or
24 simple misdemeanor violations of Code chapter 321 during the
25 two-year period, and the conviction shall be expunged as a
26 matter of law. The bill further provides that after receipt
27 of notice from the clerk of the district court that a record
28 of conviction for consumption of alcohol in public, public
29 intoxication, simulated public intoxication, or similar local
30 ordinance that arose from the same transaction or occurrence
31 has been expunged, the record of conviction shall be removed
32 from the criminal history data files maintained by the
33 department of public safety if such a record was maintained in
34 the criminal history data files.

35 Current law provides that the court's criminal record with

1 reference to a deferred judgment, any counts dismissed by the
2 court which were contained in the indictment, information,
3 or complaint that resulted in the deferred judgment, and
4 any other related charges that were not contained in the
5 indictment, information, or complaint but were dismissed, shall
6 be expunged, if the person has paid restitution and other
7 obligations.

8 The amendment to Code section 907.9 provides that finding
9 a person in contempt shall not preclude that person from
10 expunging the court's record of a dismissed count or related
11 charge as long as no counts in the indictment or information
12 or any other charges related to the deferred judgment resulted
13 in a conviction. The amendment to Code section 907.9 applies
14 to a deferred judgment expunged prior to the effective date
15 of the bill, or on or after the effective date of the bill.
16 The judicial branch has until July 1, 2017, to implement the
17 amendments to Code section 907.9.